IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

MACA.No. 757 of 2003()

OPMV.29/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANT/PETITIONER IN OP.MV.

ANANTHA SEKHARAN, S/O.PADMANABHAN NAIR,
PANDIPARAMBIL HOUSE, VARANDARAPILLY P.O.
MUKUNDPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENT IN OP.MV.
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* 1. M.D.OUSEPH, S/O.DEVASY,
MOOZHIKULAM HOUSE, VELOOPPADAM, VARANDARAPILLY PO.**(DELETED)**

(FIRST RESPONDENT IS DELETED FROM THE PARTY ARRAY
AT THE RISK OF THE APPELLANT AS PER ORDER DATED 20.9.07
IN I.A.NO.1879/07)

2. BABU, S/O.ANTHONY,
CHOOKIRI HOUSE, VARADARAPPILLY P.O.

3. THE NEW INDIA ASSURANCE CO.,
WADAKKANCHERRY ROAD, KUNNAMKULAM.

BY ADV. SRI.KKM.SHERIF

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.A.C.A.No.757 OF 2003

Dated this the 16th October, 2007.

J U D G M E N T

Petitioner-claimant in O.P.(M.V.) No.29/1998, on the file of the Motor Accidents Claims Tribunal, Irinjalakuda, is the appellant. Appellant met with a motor vehicle accident on 28.7.1997. He filed the Original Petition claiming compensation impleading the owner, driver and insurer of the vehicle. Owner and driver of the vehicle did not appear and contest. 3rd respondent Insurer alone contested the matter. Negligence alleged against the driver was denied. It was contended that the vehicle was driven by a person, who was not holding a valid driving licence, and hence, there was violation of policy conditions. The quantum of compensation claimed was disputed. The Tribunal found that the accident occurred due to the negligence of the driver of the lorry. An amount of Rs.20,000/= was awarded as compensation. The Tribunal found that the vehicle was driven by the driver holding a valid licence, and Insurer was directed to pay the amount. Challenging the quantum of compensation, petitioner himself has filed this appeal.

2. The only question arising for consideration in this appeal is whether the appellant is entitled to get any additional compensation. Appellant has produced a disability certificate showing that he as having 8% disability. The Tribunal took it as a case of 2% disability. The Tribunal awarded only an amount of Rs.3000/= for pain and sufferings. Considering all the aspects of the matter, I am of the view that an amount of Rs.3000/= more for disability and Rs.2000/= more for pain and sufferings is to be granted. I do not find any reason to modify the amount awarded on other counts. Hence, the appellant is entitled to get additional compensation of Rs.5000/= more, which will carry interest at the rate of 6%.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.5000/= as additional compensation from the respondents, with 6% interest from the date of petition, till the date of realisation. The 3rd respondent Insurer is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

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